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February 25, 2025

State of Maine  
Office of Governor Janet T. Mills  
1 State House Station  
Augusta, ME 04333

Office of the Attorney General  
6 State House Station  
Augusta, ME 04333  
[attorney.general@maine.gov](mailto:attorney.general@maine.gov)

Re: Notice of Determination (OCR Transaction Number: DO-25-610531-RV-CRR State of Maine)

Dear Counsel:

Pursuant to the authority delegated by the Secretary of the United States Department of Health and Human Services (HHS) to the Office for Civil Rights (OCR), I write to inform you that OCR issues a Notice of Violation against the Maine Department of Education (MDOE).

This action is taken under HHS's implementing regulations for Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 168, 45 C.F.R. Part 86, which prohibit discrimination on the basis of sex in any educational program or activity that receives Federal financial assistance. 45 C.F.R. § 86.41(a) provides: "No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis." "[W]hen Title IX is viewed in its entirety, it is abundantly clear that discrimination on the basis of sex means discrimination on the basis of being a male or female." *Tennessee v. Cardona*, \_\_\_ F. Supp. 3d \_\_\_, 2025 WL 63795 at \*3 (E.D. Ky. Jan. 9, 2025) (issuing a vacatur of the [the Department of Education's Title IX Final Rule] (Apr. 29, 2024)"). Title IX "applies to every recipient and to the education program or activity operated by such recipient which receives Federal financial

assistance.” 45 C.F.R. 86.11.

## I. Findings of Fact

1. The Maine Principals’ Association (MPA) is the governing body for youth sports in the state of Maine, and “is open to elementary, middle/junior high and high school principals, assistant principals, technical education center directors, assistant directors and other administrators who function primarily as building principals or assistant principals.”
2. “All public high schools and a number of private schools [in the state of Maine] are MPA members; they currently total 151,” as reported on the MPA website.
3. In 2024, the MPA approved a policy “allowing transgender [sic] athletes to compete on teams either according to their birth-assigned gender [sic] or gender identity . . .”
4. Mike Burnham, the executive director of the MPA stated, “The executive order [President Trump’s Executive Order 14201] and our Maine state Human Rights Act are in conflict, and the Maine Principal’s [sic] Association will continue to follow state law as it pertains to gender identity.”
5. The Maine Human Rights Act provides at Section 4601: “The opportunity for an individual at an educational institution to participate in all educational, counseling and vocational guidance programs, all apprenticeship and on-the-job training programs and all extracurricular activities without discrimination because of sex, sexual orientation or gender identity, a physical or mental disability, ancestry, national origin, race, color or religion is recognized and declared to be a civil right.”
6. On February 17, 2025, it was reported that Greely High, a public high school in the state of Maine, violated Title IX through the participation of a male athlete in a women’s high school track meet.
7. On February 18-19, 2025, it was reported that Maine Coast Waldorf, a public high school in the state of Maine, violated Title IX through the participation of a male athlete in a women’s high school ski event.

## II. Funding Jurisdiction

Based on a review of publicly available data, in 2024 MDOE received funding from the Administration for Community Living totaling \$516,131, from the Centers for Disease Control totaling \$99,940, and from the Administration for Children and Families totaling \$87,015.<sup>1</sup> If you contest the accuracy of these awards, please provide an explanation including any relevant documents.

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<sup>1</sup> See [https://taggs.hhs.gov/Detail/RecipDetail?arg\\_EntityId=ZyWSnnwwIUZ64ZvdbsJ6hw%3D%3D](https://taggs.hhs.gov/Detail/RecipDetail?arg_EntityId=ZyWSnnwwIUZ64ZvdbsJ6hw%3D%3D).

### **III. Notice of Violation**

1. MPA is the governing body for youth sports in the state of Maine for primary and secondary education, and its membership includes all public high schools in the state.
2. MPA “receives money from tournament activities, institutional dues, and individual professional dues.” These dues are paid in part by the MDOE.
3. The MDOE receives Federal financial assistance from HHS.
4. MDOE “is an agency of the State of Maine that administers both state education subsidy and state and federal grant programs . . . and leads many collaborative opportunities and partnerships in support of local schools and districts.”
5. Under its leadership, MDOE is responsible for interscholastic and extracurricular activities in the state of Maine, which includes ensuring that the youth sports programs in the state’s public schools comply with federal nondiscrimination law.
6. Maine public schools follow “the laws, rules, and regulations set by the Maine Principal’s Association” which “are reflective of current statewide standards,” as noted by at least one public high school in the state.
7. Based on the MPA’s policy of allowing male athletes to compete against female athletes, OCR has determined that MDOE is in violation of federal law under Title IX.
8. MDOE violates Title IX by denying female student athletes in the State of Maine an equal opportunity to participate in, and obtain the benefits of participation, “in any interscholastic, intercollegiate, club or intramural athletics” offered by the state by allowing male athletes to compete against female athletes in current and future athletic events. Male athletes, by comparison, are not subject to heightened safety or competitive concerns, which only affect females. This lack of equal opportunity and fair competition constitutes a Title IX violation.
9. Even by the own logic of the Maine Principals’ Association, moreover, the provision of additional opportunity for individuals who assert a “gender identity” different from their sex, constitutes discrimination on the basis of gender identity, against students who identify as their sex.

### **IV. Referral to the United States Department of Justice under 45 C.F.R. § 80.8**

45 C.F.R. § 80.8(a) (incorporated through 45 C.F.R. § 86.71) provides: “If there appears to be a failure or threatened failure to comply with this regulation, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by . . . any other means authorized by law. Such other means may include, but are not limited to . . . a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking . . .”

Pursuant to the process outlined under 45 C.F.R. § 80.8(d) (incorporated through 45 C.F.R. § 86.71) for other “means of enforcement authorized by law,” this Notice of Violation constitutes official notice of MDOE’s failure to comply with Title IX, as required by subsection (2).

If you have questions, you may contact Daniel Shieh, Associate Deputy Director, at [Daniel.Shieh@hhs.gov](mailto:Daniel.Shieh@hhs.gov). When contacting this office, please remember to include the transaction number, referenced above, that we have given this file.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony F. Archeval".

Anthony F. Archeval  
Acting Director  
HHS, Office for Civil Rights